

**SPECIAL AGREEMENT FOR THE IMPLEMENTATION OF THE
MEMORANDUM OF UNDERSTANDING**

BETWEEN

**UNITED STATES OF AMERICA
U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE
OFFICE OF NATIONAL MARINE SANCTUARIES**



AND

**REPUBLIC OF FRANCE
MINISTRY OF ECOLOGY, ENERGY, SUSTAINABLE DEVELOPMENT
AND THE SEA
AGENCE DES AIRES MARINES PROTÉGÉES**



TO

**COLLABORATE ON INTERNATIONAL PROTECTION
CONSERVATION AND MANAGEMENT
OF THE HUMPBACK WHALE**

NOS Agreement Code: MOA-2011-030/8270

I. PARTIES AND PURPOSE

- A. This Special Agreement aims to implement the Memorandum of Understanding (MOA-2010-003/7991 dated 19 November 2009) signed between the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of National Marine Sanctuaries (ONMS) and the French Agence des aires marines protégées (AAMP), hereafter referred to as “Parties”.
- B. This Special Agreement establishes a sister sanctuary partnership between the Stellwagen Bank National Marine Sanctuary (SBNMS) and Agoa Marine Mammal Sanctuary (hereafter designated as Agoa) for the development, promotion, and support of activities concerning the conservation, stewardship, and management of the humpback whale and its respective habitats overseen by the Parties, and other marine mammal species as is appropriate.
- C. The Parties do not intend this Special Agreement to be a legally binding “international agreement” as defined in the Case-Zablocki Act (1 U.S.C. 112b). Their intent is solely to foster cooperation on activities of mutual interest. To the extent any provisions in this Special Agreement are considered to be obligations, the Parties do not intend them to be subject to international law.

II. BACKGROUND

- A. The ONMS is the only federal program created solely to establish, protect, and manage the marine protected areas in the United States. The ONMS’s primary mandate is the protection of the resources of each sanctuary. The system of sanctuaries represents many of the diverse and productive marine habitats in U.S. ocean and Great Lakes waters. The ONMS’s primary mandate is the protection of the resources of each sanctuary.
- B. The SBNMS protects 842 square miles (638 square nautical miles) of ocean, stretching between Cape Ann and Cape Cod. Renowned for its remarkable productivity, the sanctuary supports a rich diversity of marine life including 22 species of marine mammals and is one of the most intensively used whale habitats in the northeast continental region in the U.S. Of special note, the data set for humpback whales in the Stellwagen Bank Sanctuary is the longest and most detailed study of baleen whales in the world. Matrilineal studies show evidence of four generations (1975–2006) of humpback use of, as well as inter-generational site fidelity to, the sanctuary as a feeding and nursery area.

- C. These humpbacks whales are resident in SBNMS feeding grounds from April through December and migrate to lower latitudes during the winter months, including the waters of the Caribbean French Antilles, to mate and calve. The Caribbean Sea is a special habitat for the feeding, reproduction and migration of marine mammals. Twenty-one (21) species have been counted in the French Caribbean waters: baleen whales, including humpback whales and fin whales, and toothed whales including sperm whales and numerous species of dolphins, are seen.
- D. This sister sanctuary partnership involves two Marine Protected Areas (MPAs), 2,000 miles apart that provide critical support for the same humpback whale population of around 1,000 humpback whales. The sister sanctuary partnership will serve as a model for transboundary marine mammal protection and particularly for the protection of humpback whales by increasing public awareness and support for marine mammal conservation through the exploration of this collaborative management effort.
- E. The AAMP was created by the French Law of 2006 (Loi n° 2006-436 du 14 avril 2006). It is a public entity under the control of an administrative board composed of national representatives of the State, local authorities and stakeholders. Its purposes are to support public policies in the creation and management of marine protected areas; to manage the human and financial resources dedicated to marine nature parks; and to give technical and administrative support to managers of marine protected areas.
- F. In addition, the AAMP fosters attention on marine biodiversity issues and facilitates achievement of the French objective to establish a significant marine protected areas network between 2012 and 2020. The AAMP contributes to strengthening the participation of France in international arrangements protecting the oceans and particularly in the six regional seas conventions of which France is a contracting party.
- G. Relating to marine mammals protection in the Caribbean Region, the July 27th, 1995 decree, integrally protects all marine mammals found in all French Caribbean territorial waters. France firmly positions itself for the protection of marine mammals and supports this action by establishing sanctuaries in areas that are crucial to the survival of these species. To that end, France announced in 2005 the coming creation of a Marine Mammals Sanctuary in the Caribbean French Antilles waters -Agoa- which has been achieved in 2010 with the Official Declaration of the French Government at the SPAW Conference of Parties, in Jamaica. Agoa turns by the way the Exclusive Economic Zones (EEZ) of the French West Indies into a sanctuary. EEZ is the French Marine territory that stretches to up to 200 marine miles from the shores. France aims to extend the

protection of these species to their habitat. According to the 1995 Decree, hunting cetaceans is already illegal. In order to make the French Caribbean Sanctuary a model for the harmonious life for marine mammals and their consideration in the development of human activities, Agoa gathers all the relevant stakeholders in order to assure the conservation of this privileged habitat for marine mammals and to ensure a good implementation of the agreed actions. In addition, the creation of Agoa is as well motivated by the will to foster neighboring Caribbean States to join the initiative or to carry out similar projects in order to ensure that the Caribbean Sea stays a special and privileged area for marine mammals.

- H. The sister sanctuary partnership will contribute to the implementation of the Action Plan for the Conservation of Marine Mammals in the Wider Caribbean Region, adopted by the Contracting Parties (including France and the USA) to the Protocol on Specially Protected Areas and Wildlife of the Cartagena Convention, and in particular to its objective 2.4.1 “By mutual agreement among the contracting Parties involved, design and declare marine protected areas and other management regimes, that maintain ecological connections (e.g., sister sanctuaries that promote the protection of transboundary assets) with user and stakeholders involvement and participation”.
- I. The Regional Activity Center for the Protocol on Specially Protected Areas and Wildlife (SPAW-RAC), the National Park of Guadeloupe and the Natural Marine Reserves of the French West Indies are, due to their status and missions, the main partners of the AAMP for respectively the management of Agoa and cooperation between Agoa sanctuary and other protected zones for marine mammals. This Special Agreement is developed in accordance with the MOU signed by the AAMP and the SPAW-RAC on the one hand, and with the letters exchanged between the AAMP and the National Park of Guadeloupe and between the AAMP and the Marine natural reserves of the French West Indies on the other hand, in order to benefit the respective supports of these partners.

III. AUTHORITIES

- A. The legal and programmatic authority for ONMS to enter into this MOU is the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1431 *et seq*, which includes the purposes to develop and implement coordinated plans for the protection and management of these two critical humpback whale habitats with appropriate international organizations and other public and private interests concerned with continuing the health and resilience of these marine areas, and to cooperate with global programs encouraging the conservation of marine resources; and specifically 16 U.S.C. 1435(c), which allows the Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, to cooperate with other governments and international organizations in the furtherance of the

purposes and policies of this Act and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.

- B. The legal and programmatic authority for the AAMP to enter into this special Agreement is its Director, who is the competent authority for concluding cooperation programmes and agreements on the basis of the policy decided by the council of the Agency (Loi n° 2006-436 du 14 avril 2006, Décret n° 2009-377 du 3 avril 2009 - art. 10).

IV. OBJECTIVES

- A. Collaboration between the Parties will include but not be limited to:
- Exchange of technical information, scientific data, and practical experiences about humpback whales and their respective habitats, including staff exchanges, common activities such as scientific cruises and site visits;
 - Development of methodologies for their protection within marine protected areas;
 - Development, coordination, and evaluation of research and monitoring programs and campaigns, outreach and education programs, enforcement methodology, performance assessments, and community involvement mechanisms for humpback whale research and marine protected areas;
 - Participation in relevant regional and international initiatives that contribute to the transboundary protection of marine mammals and cooperation with appropriate national and international institutions and organizations in that respect ; and,
 - Support of workshops, conferences and other meetings sponsored by each Party.
- B. A list of collaboration activities is annexed for the implementation of a first program of actions (See Appendix 1). Every 2 years, the Parties agree on a program of actions in order to specify which issues the Parties decide to join their efforts on.

V. FUNDING ARRANGEMENTS

- A. Activities in this Special Agreement will be conducted subject to the availability of funds.
- B. Each Party shall cover the costs associated with any travel or other activities for its own staff, unless as otherwise agreed to by both Parties.

- C. This Special Agreement defines in general terms the basis on which the Parties will cooperate, and as such, does not constitute a fiscal or funds obligation document.

VI. CONTACTS

- A. The points of contact for this MOU are:

SBNMS

Craig D. MacDonald, PhD
Superintendent
Stellwagen Bank National Marine Sanctuary
175 Edward Foster Road
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USA
Telephone: 781-545-8026, ext. 202
Facsimile: 781-545-8036
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AAMP

Carole Martinez
Responsable Coopération régionale
Agence des Aires marines protégées
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France
Telephone: +33 (0) 2 98 33 87 67
Facsimile: +33 (0) 2 98 33 87 77
Email: carole.martinez@aires-marines.fr

Mr. Nicolas Maslach
Chargé de mission Agoa
Agence des Aires marines protégées
Email: nicolas.maslach@aires-marines.fr

- B. If there is a change to the points of contact, the Party making the change will notify the other Party in writing of such change.

VII. DURATION, AMENDMENTS, OR TERMINATION

- A. This Special Agreement becomes effective after signature by both Parties, and

expires on November 18, 2014, unless terminated by mutual consent, one Party's written notice six months in advance, or completion of the terms and conditions of the Special Agreement.

- B. The Special Agreement may be amended at any time within the scope of this MOU, and extended or renewed at any time through written mutual consent of the Parties.
- C. The Parties will review this Special Agreement once every five years to determine whether it should be revised or discontinued.

VIII. OTHER PROVISIONS

- A. If the Parties disagree over how to interpret this Special Agreement, they shall present their differences to each other in writing, and they shall discuss them. If the Parties fail to resolve their differences within thirty (30) days, they may refer the matter to higher level of authority within their respective organizations.
- B. This Special Agreement has been executed in duplicate, in English and French, both texts being equally authentic.

APPROVALS

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE
OFFICE OF NATIONAL MARINE
SANCTUARIES

BY:

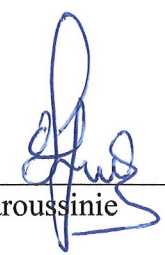

Daniel J. Basta
Director
Office of National Marine Sanctuaries

DATE:

6/13/11

REPUBLIC OF FRANCE
MINISTRY OF ECOLOGY, ENERGY,
SUSTAINABLE DEVELOPMENT AND
THE SEA
AGENCE DES AIRES MARINES
PROTÉGÉES

BY:


Olivier Laroussinie
Director
Agence des aires marine protégées

DATE:

18 juillet 2011



APPENDIX 1: Program of Actions 2011-2013

Listed below are the activities on which the Parties have decided to collaborate, in priority, in accordance with the first two years Program of Action.

The Program of action contains two main categories of activities:

- Activities that only require coordination between the Parties;
- Activities for the implementation of which, the Parties agree to actively seek internal and external support.

1. General coordination between Parties

Under the first Program of Actions 2011-2013, the Parties agree to collaborate in view of implementing, as a priority, the following activities:

- Participation in and promotion of the LifeWeb project “Marine mammals and spatial planning” in the Wider Caribbean Region and in the Pacific.

In particular, the Parties will join their efforts to provide inputs and contribution to the design, follow-up and promotion of the project components with focus on the Caribbean region, and will especially collaborate on component 2, “Regional training and learning exchanges on integrated marine management and governance” and demonstration project 1, “Development of management plan for Silver Bank whale sanctuary, Dominican Republic, and learning exchanges to the Eastern Caribbean.” Practical involvement of the Parties in the Lifeweb project will be specified as the project is finalized and implemented step by step;

- Organization of a dedicated event on the importance and benefits of cooperation during ICMMPA2.

According to their MOU, NOAA and the AAMP are already collaborating to organize the second International Conference on Protected Areas for Marine Mammals ICOMMPA2, to be held in Martinique, FWI, in November 2011. In that context, the Parties will jointly explore the options to organize a special workshop or event on the importance and benefits of regional and international cooperation for the protection of marine mammals. In particular, the opportunity of a workshop and/or panel on the need and utility of transboundary collaboration in the Wider Caribbean will be considered.

- Exchange of information on management frameworks and activities developed in their respective marine mammal sanctuaries.

Parties will regularly exchange information on their respective management frameworks,

regulations and enforcement measures, as well as on any other activity that could be usefully shared. The objective is to ensure good transmission of information and to share useful ideas, competences and experiences.

- **Promotion of and support to others marine mammals sanctuaries to come in the Wider Caribbean** in order to foresee multi-parties partnership and to strengthen monitoring activities, facilitate data sharing and common projects.

2. Priority operation activities, subject to internal and external funding.

- Monitoring campaign.

Both Parties implement or develop monitoring of their sanctuaries. Depending on availability of funding from each Party, the possibility to organize a common monitoring campaign (aerial survey and/or a scientific cruise for visual monitoring and acoustics) will be explored having in mind the interest to promote a transboundary campaign not restricted to the Parties' waters but extended to the neighbour countries and territories if they wish to participate. The benefits would be twofold:

- by mutualizing funds, the geographical coverage of and/or the variety of data collected during the campaign would be extended;

- both Parties work with specialists that have developed methods and skills worth sharing with each other, which would facilitate the harmonization of methods for data collection;

- this would be an opportunity to collect harmonized data that could be compared with each Party's datasets and constitute a new baseline in some poorly investigated areas.

The Parties commit to actively seek internal and/or external sources of funding in order to launch such a campaign. In-kind participation, especially the sharing of tools and materials and collaboration between scientists will also be considered.

- Technical exchanges.

Depending on the availability of funds for travels, each Party will try to regularly organize technical exchanges of managers. Exchanges of staff and scientists will also be explored in order to share practices and experiences on specific technical issues and to benefit from each other's experience and expertise.